

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ACE PICTURES INC.

Plaintiff,

- against -

IMDB.COM, INC.

Defendant.

Docket No. 1:18-cv-6176

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff ACE Pictures Inc. (“ACE” or “Plaintiff”) by and through its undersigned counsel, as and for its Complaint against Defendant IMDB.com, Inc. (“IMDB” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a two copyrighted photographs of Emma Stone on the set of Netflix’s comedy Maniac, owned and registered by ACE, a New York based photographic agency. Accordingly, ACE seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. ACE is a photography agency in the business of licensing photographs to online and print media for a fee having a usual place of business at 535 West 49th Street, 5FW, New York, New York 10019.

6. Upon information and belief, IMDB is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 36 West 37th Street, New York, New York 10018. Upon information and belief IMDB is registered with the NYS Department of State Division of Corporations to do business in the State of New York. At all times material, hereto, IMDB has owned and operated a website at the URL: www.imdb.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photographs

7. Philip Vaughan photographed Emma Stone on the set of Netflix’s comedy Maniac (the “Photographs”). A true and correct copy of the Photographs are attached hereto as Exhibit A.

8. ACE employs Philip Vaughan to take photographs for the agency.

9. Philip Vaughan is the author of the Photographs and ACE has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

10. The Photographs were registered with the United States Copyright Office and were given registration number VA 2-107-219.

B. Defendant’s Infringing Activities

10. IMDB copied the Photograph and place them on the Website. See www.imdb.com/title/tt5580146/mediaviewer/rm1413305088 and <https://www.imdb.com/title/tt5580146/mediaviewer/rm1346196224>. Screen shots of the Photographs on the Website are attached hereto as Exhibit B.

11. IMDB did not license the Photographs from Plaintiff for its Website, nor did IMDB have Plaintiff's permission or consent to publish the Photographs on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. IMDB infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. IMDB is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to its attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant IMDB be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 1203(b);
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York

July 8, 2018

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